

The FAA recognizes that these upgrade costs could have a significant impact on small operators, but the FAA believes that most small operators would choose not to upgrade. For small operators, the fuel savings associated with flying at FL 290–410 would not exceed the cost of the equipment upgrade. The operational penalties associated with not upgrading or delaying aircraft upgrade plans would not prevent the operators from continuing to operate. Small operators that elect not to upgrade or delay their aircraft upgrade plans would incur on average a 6% fuel penalty from conducting operations beneath FL290. We do not believe these operators would fly in RVSM airspace often enough or long enough to incur a significant fuel penalty cost if they choose to fly below RVSM airspace. We request comments on this determination.

We have determined that the proposed airspace expansion to implement RVSM between FL 290–410 in Atlantic High and Gulf of Mexico High Offshore airspace and in the San Juan Flight Information Region (FIR) would have no cost to U.S. operators beyond those identified in the NPRM.

We therefore conclude that a substantial number of small entity operators would not be significantly affected by the proposals contained in this SNPRM. We request comments on this Regulatory Flexibility Determination.

#### International Trade Impact Statement

We have assessed the potential effect of this rulemaking and have determined that it would impose the same costs on domestic and international entities and thus has a neutral trade impact.

#### Federalism Implications

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, we have determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

#### Paperwork Reduction Act of 1995

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. section 3507(d)), there are no requirements for information collection associated with this proposed rule.

#### Unfunded Mandates Reform Act of 1995 Assessment

The Unfunded Mandates Reform Act of 1995 (the Act), 2 U.S.C. 1501–1571, is intended, among other things, to curb the practice of imposing unfunded Federal mandates on State, local, and tribal governments.

Title II of the Act requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in a \$100 million or more expenditure (adjusted annually for inflation) in any one year by State, local, and tribal governments in the aggregate, or by the private sector; such as a mandate is deemed to be a “significant regulatory action.”

This proposed rule does not contain such a mandate. Therefore, the requirements of title II of the Unfunded Mandates Reform Act of 1995 do not apply.

#### International Civil Aviation Organization and Joint Aviation Regulations

In keeping with U.S. obligations under the Convention on ICAO, it is FAA policy to comply with ICAO Standards and Recommended Practices (SARPs) to maximum extent practicable. The FAA and the JAA jointly developed the operator and aircraft approval process under the auspices of the North Atlantic System Planning Group. We have determined that this amendment would not present any difference.

#### Environmental Analysis

FAA Order 1050.1D defines FAA actions that may be categorically excluded from preparation of a National Environmental Policy Act (NEPA) environmental assessment or environmental impact statement. In accordance with FAA Order 1050.1D, appendix 4, paragraph 4(j), regulations, standards, and exemptions (excluding those, which if implemented may cause a significant impact on the human environment) qualify for a categorical exclusion. We propose that this rule qualifies for a categorical exclusion because no significant impacts to the environment are expected to result from its finalization or implementation.

#### Energy Impact

The energy impact of this proposed rule has been assessed in accordance with the Energy Policy and Conservation Act (EPCA) and Public Law 94–163, as amended (42 U.S.C. 6362). We have determined that this proposed rule is not a major regulatory action under the provisions of the EPCA.

#### Plain Language

In response to the June 1, 1998, Presidential Memorandum regarding the use of plain language, the FAA re-examined the writing style currently used in the development of regulations. The memorandum requires federal agencies to communicate clearly with the public. We are interested in your comments on whether the style of this document is clear, and in any other suggestions you might have to improve the clarity of FAA communications that affect you. You can get more information about the Presidential memorandum and the plain language initiative at <http://www.plainlanguage.gov>.

For the convenience of the reader, the entire proposal (NPRM as modified by the SNPRM) has been published.

#### List of Subjects in 14 CFR Part 91

Air-traffic control, Aircraft, Airmen, Airports, Aviation safety, Reporting and recordkeeping requirements.

#### The Proposed Amendment

For the reasons discussed in the preamble, the Federal Aviation Administration proposes to amend part 91 of title 14 of the Code of Federal Regulations (14 CFR part 91) as follows:

#### PART 91—GENERAL OPERATING AND FLIGHT RULES

1. The authority citation for part 91 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 1155, 40103, 40113, 40120, 44101, 44111, 44701, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 46306, 46315, 46316, 46504, 46506–46507, 47122, 47508, 47528–47531, articles 12 and 29 of the Convention on International Civil Aviation (61 stat. 1180).

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#### Subpart B—Flight Rules

1. Amend section 91.159 by revising paragraph (b) to read as follows and by deleting paragraph (c):

##### § 91.159 VFR cruising altitude or flight level.

\* \* \* \* \*

(b) When operating above 18,000 feet MSL, maintain the altitude or flight level assigned by ATC.

2. Amend section 91.179 by revising paragraph (b)(3) introductory text and adding a new paragraph (b)(4) to read as follows:

##### § 91.179 IFR cruising altitude or flight level.

\* \* \* \* \*

(b) In uncontrolled airspace.

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